

DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. 19-31
Sacramento, CA 95814



August 29, 1986

ALL COUNTY LETTER NO. 86-85

TO: All County Welfare Directors
All Public and Private Adoption Agencies
All SDSS Adoptions District Offices

SUBJECT: ADOPTION ASSISTANCE PROGRAM (AAP) ELIGIBILITY FOR
INDEPENDENTLY ADOPTED CHILDREN

The Department of Social Services is receiving an increasing number of questions about the availability of AAP benefits to families adopting children through the Independent Adoption Program. This letter seeks to answer these questions by discussing AAP eligibility for independently adopted children and the procedures to be used in handling such cases.

Independently adopted children must meet basic AAP eligibility requirements. The child must:

- o be "hard to place,"

and

- o either

- have received AFDC-FC or SSI/SSP prior to adoption by a foster parent or guardian with whom s/he has established significant emotional ties

or

- have not been identified as having a "hard-to-place" condition until after placement in the home and the development of significant emotional ties, and the cost or potential costs attributable to the newly discovered condition prevents the family from otherwise adopting, resulting in the child's ongoing receipt of AFDC-FC or SSI/SSP in this or another home.

The following paragraphs describe each of the eight AAP eligibility conditions all children must meet to qualify for and receive AAP, and specifically how the child being adopted independently might or might not meet these conditions.

1. The child must be a "hard-to-place child," i.e., a child "...whose adoption without financial assistance would be unlikely because of:
 - adverse parental background,
 - ethnic background, race, color, language,
 - membership in a sibling group which should remain intact,
 - mental, physical, medical or emotional handicaps, or
 - age of three years or more." (Welfare and Institutions Code Section 16116)

Independently adopted children usually do not have any of the above five characteristics or if they do, parents are usually available who would adopt without financial assistance. For example, while a newborn minority child does have one of the characteristics (race), this characteristic alone seldom requires AAP in agency (i.e., relinquishment) adoptions and would never require such assistance in independent adoptions.

2. A search must be conducted for potential adoptive parents who do not require assistance to determine whether "adoption without financial assistance is unlikely." The search must include either presentation of the child at an exchange meeting or registration of the child in the SDSS photo listing album. The only exception to this search requirement is if "...the current foster parent(s), or other person(s) with whom the child has been living and has established significant emotional ties," have both:
 - expressed interest in adopting the child, and
 - been determined by the agency to be appropriate adoptive parents for the child. (22 CAC 30666(b))

In independent adoptions interest is expressed by filing a petition. A home study recommending that the petition be granted is the indicator of appropriateness.

7. The child is not eligible for payment until the adoptive parents are legally responsible for support of the child pursuant to an interlocutory or final decree of adoption. (22 CAC 30667(2)(A)3.)
8. For payment to be initiated or continued the adoptive parents must actually be providing support to the child. (22 CAC 30667(2)(A)4.)

When a family adopting independently requests AAP, the agency investigating the case is responsible for determining eligibility and payment amount, completing necessary documents, recertifying the case, and performing other related tasks. The process is described in 22 CAC 30671. The investigating agency performs those tasks which these regulations state the "agency" will perform. They are the same tasks that the agency would perform if the adoption were an agency (relinquishment) adoption.

Generally, in determining the payment amount for a disabled infant who presented no apparent disability at the time of placement, the agency should assume that the decision to adopt independently is a statement by the family that it can meet at least those needs which are equal to those of a normally healthy child. Thus, the determination of the AAP payment amount usually would consider only the additional costs resulting from the child's disability. For many children this means that a deferral of payment is initially appropriate. This is accomplished by completing Section II of the "Adoption Assistance Agreement" form (AD 4320). If the family is unable, but willing, to obtain adequate health insurance coverage for the child a minimum (e.g., \$5) AAP grant would be necessary to provide Medi-Cal coverage.

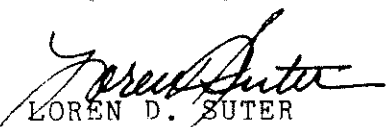
To achieve intra-county payment consistency, in those counties in which adoptions are the responsibility of a county adoption agency and independent adoptions are investigated by a SDSS district office, district office staff are encouraged to consult with county adoption staff in the payment determination process.

County adoption staff who are familiar with AAP can probably answer most questions that county staff investigating independent adoptions have about AAP. When this is not the case, the Department is able to provide consultation to agencies concerning

In an independent adoption, AAP eligibility can only be established through linkage to the "established significant emotional ties" criterion, as the required search cannot be conducted prior to placement. Eligibility is therefore limited to two groups of children:

- a. Children receiving AFDC-FC or SSI/SSP whose foster parents, relatives functioning as foster parents, or guardians who had been their foster parents, are unable to adopt without financial assistance.
 - b. Infants with no apparent disability at the time of placement who are found prior to the finalization of the adoption to have a significant disabling condition (e.g., severe mental retardation) which would cause the family to withdraw the petition and seek another solution, resulting in expenditure of AFDC-FC or SSI/SSP funds unless adoption assistance was made available.
3. The child must be either:
 - relinquished for adoption to a California agency,
 - freed for adoption through termination of parental rights by a California court, or
 - committed to the Department (see Civil Code Section 226(c)). (Welfare and Institutions Code Section 16120(e).)
 4. The child's eligibility for AAP must be expected to reduce the utilization of foster care and the level of foster care expenditures (i.e., AFDC-FC or SSI/SSP non-medical out-of-home payments). AAP payments "...shall not exceed the amount that would be paid for foster care if the placement for adoption had not taken place." (Welfare and Institutions Code Sections 16115.5 and 16121(a).)
 5. The child must be under age 18. (Once started, AAP may continue to age 21 in certain circumstances.) (22 CAC 30667(2)(A)1.)
 6. An "Adoption Assistance Agreement" (AD 4320) must be completed prior to the final decree of adoption. (22 CAC 30667(2)(A)2.)

the use of AAP in independent adoptions. County agencies should address any questions on the contents of this letter to your adoptions program consultant at (916) 322-5973 or ATSS 492-5973.



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cc: CWDA